World's Best Janitorial Services, Inc. and Margarette Edney. Case 5-CA-12399

April 3, 1981

DECISION, ORDER, AND REMAND

Upon a charge filed on July 16, 1980, by Margarette Edney, herein called the Charging Party, served on World's Best Janitorial Services, Inc., herein called Respondent, the General Counsel of the National Labor Relations Board, by the Regional Director for Region 5, issued a complaint on August 22, 1980, against Respondent, alleging that Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and Section 2(6) and (7) of the National Labor Relations Act, as amended. Copies of the charge and complaint and notice of hearing before an administrative law judge were duly served on the parties to this proceeding.

With respect to the unfair labor practices, the complaint alleges, in substance, that on July 2, 1980, Respondent interfered with, restrained, and coerced employees in the exercise of their rights guaranteed by Section 7 of the Act by terminating the employment of Margarette Edney, the Charging Party herein, and, that, at all times thereafter, Respondent has refused and continues to refuse to reinstate Edney because she refused to commit unfair labor practices in order to discourage its employees from supporting or assisting the National Association of Government Workers, or otherwise engaging in other protected concerted activities.

In a letter to the Regional Director for Region 5 dated August 29, 1980, Respondent's director stated, inter alia, "I am returning your papers unsigned because as Director of this firm, I do not sign any fabrications or lies by you or anyone else. . . . To bring [the Charging Party's] lies to light, the company is prepared to go to court." In response to this communication, the Board agent handling the case, by telephonic communication and a letter dated November 14, 1980, informed Respondent that its answer was deficient, and that if it did not file an answer by December 1, 1980, he would recommend that the Regional Director seek summary judgment. Subsequently, by letter to the Regional Director dated November 24, 1980, Respondent stated that "The corporation deny [sic] all charges list [sic] in Case 5-CA-12399" and asserted as an affirmative defense that the Charging Party was terminated because "she did not carry out the operating manager's instruction on how to manage the contract." The Regional Director interpreted this letter to be a general denial of paragraphs 5 and 6 of the complaint, which contain the unfair labor practice allegation.

On January 30, 1981, counsel for the General Counsel filed directly with the Board a Motion for Partial Summary Judgment contending that Respondent's purported answer fails to conform to Section 102.20 of the Board's Rules and Regulations in that it does not specifically deny, admit, or explain the allegations contained in paragraphs 1, 2(a), 2(b), 2(c), 3, and 4 of the complaint. Subsequently, on February 3, 1981, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's Motion for Partial Summary Judgment should not be granted. Respondent has not filed a response to the Notice To Show Cause and, therefore, the allegations of the Motion for Partial Summary Judgment stand uncontroverted.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Partial Summary Judgment

Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, provides as follows:

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and shall be so found by the Board, unless good cause to the contrary is shown.

As set forth supra and in the uncontroverted assertion in the Motion for Partial Summary Judgment, Respondent's November 24, 1980, letter, which constitutes a general denial of paragraphs 5 and 6 of the complaint, did not specifically admit, deny, or explain any of the other allegations in the complaint. Therefore, because Respondent has not filed an answer to paragraphs 1, 2(a), 2(b), 2(c), 3, and 4 of the complaint in conformity with Section 102.20 of the Board's Rules and Regulations and because no good cause for its failure to do so has been shown, as required by said Rules and Regulations, the allegations contained in the aforesaid paragraphs of the complaint are deemed to be admitted to be true. Accordingly, we hereby grant the General Counsel's Motion for Partial Summary Judgment.

255 NLRB No. 103

On February 10, 1981, counsel for the General Counsel filed a motion requesting that the Board reinstate the initially scheduled hearing date of April 16, 1981, which had been postponed indefinitely by the Board's order transferring the proceeding to the Board, contending that if the motion for partial summary judgment is granted, the 8(a)(1) allegations contained in paragraphs 5 and 6 of the complaint still remain in issue necessitating a hearing.

Inasmuch as we have granted the General Counsel's Motion for Partial Summary Judgment and no good cause to the contrary being shown, we shall remand this proceeding to the Regional Director for Region 5 for the sole purpose of arranging a hearing before an administrative law judge to determine the issues raised in paragraphs 5 and 6 of the complaint.

On the basis of the entire record, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF RESPONDENT

Respondent, a Virginia corporation, at all times material herein has maintained an office and place of business at 900 South Washington Street, Falls Church, Virginia, and is engaged in the provision of janitorial services to the U.S. Naval Shipyard located in Norfolk, Virginia, pursuant to a contract under the terms of which said Respondent annually receives revenues in excess of \$500,000. During this same period, Respondent purchased and received goods and material valued in excess of \$5,000 from Crown Suppliers, located in Springfield, Virginia, which supplier received said goods and materials directly from points located outside the Commonwealth of Virginia.

We find, on the basis of the foregoing, that Respondent is, and has been at all times material herein, an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act, and that it will effectuate the policies of the Act to assert jurisdiction herein.

II. THE LABOR ORGANIZATION INVOLVED

National Association of Government Workers is a labor organization within the meaning of Section 2(5) of the Act.

The Board, upon the basis of the foregoing facts and entire record, makes the following:

CONCLUSIONS OF LAW

- 1. World's Best Janitorial Services, Inc., is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
- 2. National Association of Government Workers is a labor organization within the meaning of Section 2(5) of the Act.

ORDER

It is ordered that the General Counsel's Motion for Partial Summary Judgment be, and it hereby is, granted.

IT IS FURTHER ORDERED that this proceeding be, and it hereby is, remanded to the Regional Director for Region 5 for the purpose of arranging a hearing before an administrative law judge limiting such proceeding to the determination of the issues raised in paragraphs 5 and 6 of the complaint, and that the Regional Director be, and he hereby is, authorized to issue notice thereof.

IT IS FURTHER ORDERED that the original hearing date of April 16, 1981, be, and it hereby is, reinstated.